

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 BGH HOLDINGS, LLC, a Washington limited
10 liability company; GINGER ATHERTON;
HENRY DEAN, and their marital community,

Plaintiff,

No. 2:18-cv-1408 RSL

12 v.
13 D.L. EVANS BANK,

**STIPULATED JOINT MOTION
AND ORDER TO CONTINUE
TRIAL DATE AND REMAINING
DEADLINES**

13 | D.L. EVANS BANK,

Defendant,

V.

16 BGH HOLDINGS, LLC; GINGER
17 ATHERTON; HENRY DEAN; JIM DEAN;
18 FRANK DEAN; WN3, LLC, a Washington
19 limited liability company; and DOES 1-5

Counterclaim/Third-Party Defendants.

Plaintiffs BGH Holdings, LLC, Ginger Atherton, and Henry Dean (“Plaintiffs”) and Defendant D.L. Evans Bank (“the Bank”) (collectively, “the parties”) jointly request that the Court continue the trial date to October 2023 and extend all related trial deadlines, including but not limited to the deadline to file motions in limine. This relief is warranted for the following reasons:

1 1. On September 25, 2018, Plaintiffs filed their First Amended Complaint for
 2 Violation of 42 U.S.C. 1983; Conversion, Unjust Enrichment, Declaratory Relief, Injunctive
 3 Relief, Attorneys' Fees, and Costs and Jury Demand against the Bank. Dkt. #4.

4 2. On December 27, 2018, the Bank filed its Amended Answer, Affirmative
 5 Defenses, Counterclaims and Third Party Claims of Defendant. Dkt. #18.

6 3. On September 27, 2021, the Court entered its Order Regarding Plaintiffs'
 7 Response to Order to Show Cause and Plaintiffs' Motion to Dismiss Defendants' Counterclaims.
 8 Dkt. #149. The Court dismissed Plaintiffs' claims under the *Rooker-Feldman* doctrine with the
 9 exception of Plaintiffs' § 1983 claim, which the Court allowed to move forward "to the extent it
 10 pertains to the Bank's alleged conduct in enforcing the writ of execution during the entrance and
 11 search of plaintiffs' residence." *Id.* at 6. In its Order, the Court also denied Plaintiffs' motion to
 12 dismiss the Bank's counterclaims. *Id.* at 14.

13 4. On August 25, 2022, the Court entered a Minute Order Setting Amended Trial
 14 Date & Related Dates that set the trial date to June 5, 2023. Dkt. #155. Under LCR 16(h),
 15 Plaintiffs' Pretrial Statement would be due 30 days prior to the date for filing the proposed
 16 pretrial order; i.e., on April 24, 2023. The Bank's Pretrial Statement would be due 10 days later;
 17 i.e., on May 4, 2023.

18 5. On November 23, 2022, the Bank filed its Renewed and Amended Motion for
 19 Summary Judgment. Dkt. #158.

20 6. On May 3, 2023, the Court entered its Order on Summary Judgment. Dkt. #176.
 21 The Court dismissed Plaintiffs' remaining § 1983 claim. The Court dismissed the Bank's first
 22 counterclaim for declaratory judgement that "Dean's debt as reflected by the Idaho Judgment
 23 and Washington Judgment is presently valid." Dkt. #176 at 24, ¶7. The Court also dismissed the
 24 Bank's second counterclaim for declaratory judgment that "defendant's 'Judgment may be
 25 enforced in Washington under Washington law regarding execution.'" Dkt. #176 at 25, ¶ 7. The
 26 Court also denied the Bank's motion for summary judgment as to the Bank's fraudulent
 27 transfer counterclaims. *Id.* at 25-26.

1 7. On May 4, 2023, the Bank served its Pretrial Statement on Plaintiffs' counsel.

2 *See Dkt. #177.*

3 8. Plaintiffs have not yet served their Pretrial Statement on the Bank's counsel
 4 despite multiple requests from the Bank, impeding the Bank's ability to prepare its motions in
 5 limine. *See Dkt. #177.*

6 9. Plaintiffs also indicate they intend to bring a motion to dismiss Bank's remaining
 7 fraudulent transfer claims based on this Court's lack of subject matter jurisdiction. The Bank
 8 disagrees with Plaintiffs' position on jurisdiction as it contends the Court has already addressed
 9 this issue (*see* Dkt. #149) but understand that should the Court revisit and address subject matter
 10 jurisdiction, the issue should be adjudicated before a jury is empaneled on this case.

11 10. The parties agree that no further amendments shall be made or allowed.

12 11. The parties jointly request that the June 5, 2023, trial date and all related deadlines
 13 be adjusted by approximately six months in order to allow sufficient time for the parties to
 14 respond to the Order on Summary Judgment, including determining whether realignment is
 15 appropriate and exploring the opportunity for potential settlement negotiations in light of the
 16 Order.

17 12. The proposed amended schedule is as follows:

Event	Old Date	New Date
All motions in limine must be filed by and noted on the motion calendar no earlier than the second Friday thereafter. Replies will be accepted.	May 8, 2023	November 3, 2023
Agreed pretrial order due	May 24, 2023	November 27, 2023
Trial briefs, proposed voir dire questions, proposed jury instructions, and trial exhibits due	May 31, 2023	November 30, 2023
TRIAL DATE	June 5, 2023	December 4, 2023

1 For the foregoing reasons, the parties respectfully request the Court continue the trial and
2 trial-related deadlines as outlined above.

3 DATED this 12th day of May, 2023.

4
5 Davis Wright Tremaine LLP
6 Attorneys for D.L. Evans Bank

7 By /s/ Rhys M. Farren
8 Rhys M. Farren, WSBA #19398
9 929 108th Avenue NE, Suite 1500
Bellevue, WA 98004
Telephone: 425.646.6132
Email: rhysfarren@dwt.com

10 Jennifer K. Chung, WSBA #51583
11 920 Fifth Avenue, Suite 3300
Seattle, WA 98104-1610
Telephone: 206.622.3150
Fax: 206.757.7700
Email: jenniferchung@dwt.com

12 By /s/ Wright Noel
13 Wright A. Noel, WSBA #25264
Carson & Noel PLLC
20 Sixth Avenue Northeast
Issaquah, WA 98027
Telephone: 425.394.7786
Email: wright@carsonnoel.com

14
15 Western Washington Law Group PLLC
16 Attorneys for BGH Holdings, LLC, Frank
17 Dean, WN3, LLC, Jim Dean, Ginger
18 Atherton, and Henry Dean

19 By /s/ Dennis J. McGlothin
20 Dennis J. McGlothin, WSBA #28177
Robert J. Cadranell, II, WSBA #41773
P. O. Box 468
Snohomish, WA 98291
Telephone: 425-728-7296
Email: docs@westwalaw.com
Email: robert@westwalaw.com

21
22
23
24
ORDER

25 IT IS SO ORDERED.

26 Dated this 15th day of May 2023.

27


The Honorable Robert S. Lasnik
United States District Judge